

Exhibit 1

From: Josh Ripley <jripley@bm.net>
Sent: Thursday, August 15, 2019 3:38 PM
To: Barry Temkin <BTemkin@moundcotton.com>; Tracey Cowan <tcowan@pwcklegal.com>
Cc: Tien Le <tle@pwcklegal.com>; Jodi Tesser <JTesser@moundcotton.com>
Subject: RE: James Contant v. Bank of America Corporation/ Confidential/

Barry,

The Defendants have informed us that they are currently in negotiations with you regarding the production of additional documents responsive to Defendants' subpoena but not Plaintiffs' subpoena. We think it makes sense to hold off on our formal cost sharing proposal until those negotiations are finalized, in order to avoid unnecessary duplicative work and costs. Please let me know if you would like to discuss further.

Best,

JOSH RIPLEY / *Associate*
d 215.875.3093 m 215.875.3000 | jripley@bm.net

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From: Barry Temkin [<mailto:BTemkin@moundcotton.com>]
Sent: Thursday, August 8, 2019 11:20 AM
To: Tracey Cowan <tcowan@pwcklegal.com>
Cc: Josh Ripley <jripley@bm.net>; Tien Le <tle@pwcklegal.com>; Jodi Tesser <JTesser@moundcotton.com>
Subject: RE: James Contant v. Bank of America Corporation/ Confidential/

Hi Josh and Tracey.

Weren't you going to get back to me with a proposal on paying FXCM's costs and attorney's fees?

It's been over a month since we last communicated.

I'm out on vacation next week, but back on August 19.

Barry

Barry Temkin
Partner

Mound Cotton Wollan & Greengrass LLP
One New York Plaza

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Fax: (212) 344-8066
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Web: www.moundcotton.com
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From: Barry Temkin
Sent: Tuesday, July 02, 2019 4:50 PM
To: 'Tracey Cowan' <tcowan@pwcklegal.com>
Cc: 'Josh Ripley' <jripley@bm.net>; 'Tien Le' <tle@pwcklegal.com>; Jodi Tesser <JTesser@moundcotton.com>
Subject: RE: James Contant v. Bank of America Corporation/ Confidential/

Hi Josh and Tracey.

Here is my proposed draft declaration per the agreement in my June 17 letter, a copy of which is also attached for your convenient reference. The enclosed draft declaration is for the purpose of settlement only, under Federal Rule of Evidence 408.

Also, I have reflected upon our discussion last week about attorneys' fees, and it struck me that while Tracey energetically distinguished several cases which did award attorneys' fees to non-parties, you didn't cite any cases which denied them altogether. Rather you just said that our case is unlike cases which granted attorneys' fees. However, in the BCCI case, First Am. Corp. v. Price Waterhouse Ltd. Liab. P'ship, 184 F.R.D. 234, 240 (S.D.N.Y. 1998), the non-party accountants were arguably negligent in not detecting the massive fraud. And even those guys got a portion of their attorneys' fees paid. Here, you are not attributing any fault to the non-party RFEDs. There is no authority that I have seen to pay nothing on the facts of this case.

Also, you told me that you do not wish to create any precedent in paying attorneys' fees. Yet you are also telling me that your negotiations with other RFEDs are confidential, and you will not disclose to me your deals with them. So our discussions are confidential. And you are offering me nothing for my clients' attorneys' fees. So I have nothing to lose by filing a motion for attorneys' fees. My research is done and my letter to the judge is already written. (I'm a fast writer.) On the other hand, if I prevail with the court, the decision will be publicly available, and you will definitely create bad precedent for the plaintiffs, and you could be on the hook for 35 other RFEDs. I've got nothing to lose. So please think about reconsidering your initial position, and consider paying my client's attorneys' fees, which I will agree in writing to keep confidential, just as you are promising to maintain the confidentiality of FXCM's information.

We've made pretty reasonable progress on negotiating the other aspects of our deal, and I would be pleased to wrap up the entire process, if we can reasonably do so.
Have a relaxing holiday weekend and speak to you next week.

Barry

Barry Temkin
Partner

Mound Cotton Wollan & Greengrass LLP

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New York, NY 10004
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Fax: (212) 344-8066

Email: btemkin@moundcotton.com

Web: www.moundcotton.com

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From: Barry Temkin
Sent: Wednesday, May 29, 2019 5:32 PM
To: Tracey Cowan <tcowan@pwcklegal.com>
Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>; Jodi Tesser <JTesser@moundcotton.com>
Subject: RE: James Contant v. Bank of America Corporation

Dear Josh and Tracey:

Please see attached letter following up on our May 15 meet and confer. Speak to you at 2:00 PM on May 31. If you could make it at 2:30 PM, that would be better for us.

Thanks.

Barry

Barry Temkin
Partner

Mound Cotton Wollan & Greengrass LLP

One New York Plaza
New York, NY 10004
Tel: (212) 804-4221
Fax: (212) 344-8066

Email: btemkin@moundcotton.com

Web: www.moundcotton.com

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From: Tracey Cowan <tcowan@pwcklegal.com>
Sent: Friday, April 26, 2019 2:04 PM
To: Barry Temkin <BTemkin@moundcotton.com>
Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>; Jodi Tesser <JTesser@moundcotton.com>
Subject: RE: James Contant v. Bank of America Corporation

My apologies, we had a bit of a scheduling miscommunication. Can you please call in to the line below?

Josh Ripley's Meeting Room:

First, click: <https://meet.loopup.com/wdVaC2>

Know who's on and who's speaking
LoopUp calls your phone – no need to dial in
And view when the leader shares their screen

Or, if you are offline, dial in:
(by joining, you agree to the privacy policy at loopup.com)
Guest Dial-in Code: 2961280#
USA: +1 (877) 746-4263
UK (Local): +44 20 7019 0492
USA: +1 (877) 746-4263

From: Barry Temkin <BTemkin@moundcotton.com>
Sent: Friday, April 26, 2019 11:03 AM
To: Tracey Cowan <tcowan@pwcklegal.com>
Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>
Subject: RE: James Contant v. Bank of America Corporation

Tracey,
Someone else was on the line call me at 212 804 4221

Barry Temkin
Partner

Mound Cotton Wollan & Greengrass LLP

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Web: www.moundcotton.com

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From: Tracey Cowan <tcowan@pwcklegal.com>
Sent: Tuesday, April 23, 2019 5:14 PM
To: Barry Temkin <BTemkin@moundcotton.com>
Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>
Subject: RE: James Contant v. Bank of America Corporation

Hi Barry,

That time works for us, assuming you meant April 26 (not the 29th). My assistant will circulate a call-in number. Please shoot us Jodi's email if you would like her to be included in the meeting invite.

I'm not sure I completely understand your extension request, as it was my understanding that your client served objections in lieu of a motion to quash. At any rate, we can certainly discuss that during our call on Friday.

Best,
Tracey

From: Barry Temkin <BTemkin@moundcotton.com>
Sent: Tuesday, April 23, 2019 1:05 PM
To: Tracey Cowan <tcowan@pwcklegal.com>
Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>; Joe Peiffer

<jpeiffer@pwcklegal.com>

Subject: RE: James Contant v. Bank of America Corporation

Tracey,

How about 2:00 PM/11:00 AM on Friday April 29?

May we extend our time to file any potential motion to quash for another couple of weeks while we talk?

I think it would benefit all concerned (and save some attorneys' fees) if we can narrow the issues.

Barry

From: Tracey Cowan <tcowan@pwcklegal.com>

Sent: Monday, April 22, 2019 7:09 PM

To: Barry Temkin <BTemkin@moundcotton.com>

Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>; Joe Peiffer <jpeiffer@pwcklegal.com>

Subject: RE: James Contant v. Bank of America Corporation

Alright, can you and Jodi please propose a time?

From: Barry Temkin <BTemkin@moundcotton.com>

Sent: Monday, April 22, 2019 4:06 PM

To: Tracey Cowan <tcowan@pwcklegal.com>

Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>; Joe Peiffer <jpeiffer@pwcklegal.com>

Subject: Re: James Contant v. Bank of America Corporation

Friday is OK with me.

Get [Outlook for iOS](#)

From: Tracey Cowan <tcowan@pwcklegal.com>

Sent: Monday, April 22, 2019 6:28 PM

To: Barry Temkin

Cc: Josh Ripley; Kirby Fisher; Tien Le; Joe Peiffer

Subject: RE: James Contant v. Bank of America Corporation

Unfortunately I'm in court later that day, but we could make some time on Friday if Thursday morning doesn't work.

-----Original Message-----

From: Barry Temkin <BTemkin@moundcotton.com>

Sent: Monday, April 22, 2019 3:26 PM

To: Tracey Cowan <tcowan@pwcklegal.com>

Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>; Joe Peiffer <jpeiffer@pwcklegal.com>

Subject: RE: James Contant v. Bank of America Corporation

Let me check with Jodi Tesser and see if she's available as well; otherwise we can make it later in the day.

B

-----Original Message-----

From: Tracey Cowan <tcowan@pwcklegal.com>

Sent: Monday, April 22, 2019 6:25 PM

To: Barry Temkin <BTemkin@moundcotton.com>

Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>; Joe Peiffer <jpeiffer@pwcklegal.com>

Subject: RE: James Contant v. Bank of America Corporation

Sounds good. Thanks Barry.

-----Original Message-----

From: Barry Temkin <BTemkin@moundcotton.com>

Sent: Monday, April 22, 2019 3:23 PM

To: Tracey Cowan <tcowan@pwcklegal.com>

Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>; Joe Peiffer <jpeiffer@pwcklegal.com>

Subject: RE: James Contant v. Bank of America Corporation

The best time for me would be 11:00 AM/ 2:00 PM.

Thanks.

Barry

-----Original Message-----

From: Tracey Cowan <tcowan@pwcklegal.com>

Sent: Monday, April 22, 2019 6:14 PM

To: Barry Temkin <BTemkin@moundcotton.com>

Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>; Joe Peiffer <jpeiffer@pwcklegal.com>

Subject: RE: James Contant v. Bank of America Corporation

Hi Barry,

I am not sure what relevance it has to the substance of your client's responses, but it was the judgment of my team that it is inappropriate to share the other RFED's counsel's contact info as requested. I've attached the FXDD MTQ, which of course is also available on the public docket.

On Thursday Josh and I could chat at either 10 or 11 am PST. Do either of those times work for you? If so, I'll have my assistant circulate a call-in number. Please let me know if there is anything else you need in advance of our call.

Best,

Tracey

-----Original Message-----

From: Barry Temkin <BTemkin@moundcotton.com>

Sent: Monday, April 22, 2019 2:35 PM

To: Tracey Cowan <tcowan@pwcklegal.com>

Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>; Joe Peiffer <jpeiffer@pwcklegal.com>

Subject: RE: James Contant v. Bank of America Corporation

Tracey,

I'm available to meet and confer tomorrow and Thursday.

Please send me FXDD's motion to quash. Please recall that I originally requested information about the other RFEDs you had subpoenaed and you did not furnish that information.

Thanks.

Barry

-----Original Message-----

From: Tracey Cowan <tcowan@pwcklegal.com>

Sent: Monday, April 22, 2019 3:49 PM

To: Barry Temkin <BTemkin@moundcotton.com>

Cc: Josh Ripley <jripley@bm.net>; Kirby Fisher <KFisher@moundcotton.com>; Tien Le <tle@pwcklegal.com>; Joe Peiffer <jpeiffer@pwcklegal.com>

Subject: RE: James Contant v. Bank of America Corporation

Hello Barry,

Thank you for tendering FXCM's responses to the Contant subpoena. I note that the responses consist entirely of objections and contain zero promises of actual production. Respectfully, this is unacceptable. Please let me know your availability over the next couple of days to meet and confer regarding these deficient responses. In advance of that call, it may be instructive for you to review the attached Order of the Court denying a Motion to Quash based on substantially the same objections. I have also attached the operative protective order, which is relevant to your client's privacy and trade secret objections.

Best regards,

Tracey

-----Original Message-----

From: Kirby Fisher <KFisher@moundcotton.com>

Sent: Monday, April 22, 2019 12:42 PM

To: Tracey Cowan <tcowan@pwcklegal.com>

Cc: Barry Temkin <BTemkin@moundcotton.com>

Subject: James Contant v. Bank of America Corporation

Sent on behalf of Barry Temkin.

Please see attached.

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v7eGKrhcSHmLGDZkjNIBi3bshkdCUg,,&typo=1

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